

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 19**

CORNISH COLLEGE OF THE ARTS,¹

Employer

and

Case 19-RC-273405

**INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES,
MOVING PICTURE TECHNICIANS,
ARTISTS, AND ALLIED CRAFTS OF
THE US**

Petitioner

DECISION AND DIRECTION OF ELECTION

Cornish College of the Arts (Employer) is an institution of higher learning focusing on the arts located in Seattle, Washington. International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists, and Allied Crafts of the U.S., (Petitioner) filed a petition on February 24, 2021 seeking, by an *Armour-Globe* self-determination election, to add certain employees of the Employer to the existing bargaining unit of performance production employees. Specifically, the group the Petitioner seeks to add to the existing unit consists of the Paint Shop Supervisor, the Scene Shop Supervisor, the PONCHO Facility Manager, and the Raisbeck Facility Manager.

The Employer argues that the petitioned-for group does not comprise a distinct segment of the workforce and moreover, the employees in the group sought by Petitioner do not share a community of interest with the existing unit, the latter of which is comprised of “manual craft jobs focused on each employee’s skillset.” Furthermore, according to the Employer, the jurisdictional scope of the CBA is limited to employees who work in the Playhouse.

The Employer also asserted in its initial Statement of Position in response to the Petition that the group proposed by the Petitioner was too limited and should include additional non-supervisory employees in the CSES department. However, the Employer did not further identify

¹ I grant the parties’ motion to amend the petition and other formal documents to correctly reflect the names of the parties as set forth herein.

these employees by name or position and no evidence was educed at the hearing to support this contention.²

The Petitioner argues the employees in the petitioned-for group share a community of interest with the existing unit because they belong to the same department and report to the same supervisor as the unit employees, and evidence many of the other factors necessary to show a community of interest between the two groups. Moreover, the Petitioner asserts that the employees in the petitioned-for group are an identifiable, distinct segment of the workforce and therefore their inclusion in the existing unit is appropriate.

A hearing was held before a Hearing Officer of the National Labor Relations Board on March 19 and 22, 2021 on the issue of whether an *Armour-Globe* election is appropriate regarding the petitioned-for unit.

After careful consideration of the hearing record and the arguments of the parties, and for the reasons set for the below, I am ordering a self-determination election among the employees in the group sought by Petitioner, specifically the Scene Shop Supervisor, the Paint Shop Supervisor, The PONCHO Facility Manager, and the Raisbeck Facility Manager. Also, for the reasons set forth more fully below, I am ordering that the Costume Staff/Instructor Shop Supervisor and the Costume Shop Tech, if that position is filed during the eligibility period, be permitted to vote subject to challenge. The parties have agreed to a mail-ballot election, and there are 4 employees in the group sought by the Petitioner, and 2 that I have found may vote subject to challenge.

THE EMPLOYER'S OPERATION

The Employer is an institution of higher learning located in Seattle, Washington, focusing on the arts, with several majors across performing and visual arts and an enrollment ranging between 450 and 600 students. In addition to its main campus, it also operates a number of performance venues, including the 750-seat Cornish Playhouse (Playhouse) (including Alhadeff Rehearsal Hall), the PONCHO performance space used primarily for musical performances and

² The Employer attempted to file a second Statement of Position wherein it identified certain employees to be included in the petitioned-for group: however I rejected it as untimely filed and therefore it is not a part of the instant record. Shortly thereafter, the Employer requested to amend its original Statement of Position and to withdraw its argument regarding other employees who should be included in the group sought by the Petitioner, and instead to assert that the employees in the group sought were statutory supervisors or managers by virtue of their mentoring, evaluating and directing the work of work-study students what required "significant intellectual, discretionary skills." I also rejected this request to amend because no good cause was shown to excuse its untimely filing. Consequently, I found that the Employer was precluded from litigating the issue of supervisory status at the hearing because it had failed to raise the issue in a timely manner.

recitals,³ and the Raisbeck Auditorium (Raisbeck) described as a “black box” theatre.⁴ Through the operation of these “professional teaching theatres,” the Employer allows its students to work with professional crews in the classroom and in the production and staging of performances as part of their education.

The approximately 8 employees in the existing unit and the 4 employees in the group sought by the Petitioner all work under the auspices of the Creative Spaces and Event Services (CSES) Department, which encompasses two groups: performing arts and visual arts. The visual arts group – which is not at issue in this case – focuses on photography, design, fine art, and interior architecture, while the performing arts consists of dance, theatre, and performance production. Essentially, the production arts employees in CSES support the respective academic departments that engage in student instruction, and assist the performance production faculty in supporting, evaluating, and providing hands-on training to students.⁵

All of the production arts employees in CSES – both in the existing unit and the group sought by the Petitioner – report to the Director of CSES and are supervised by the same Technical Supervisor. They also all report to the same Human Relations department, use the same payroll system, and receive the same benefits if they are eligible.

THE EXISTING UNIT

The Petitioner and the Employer are parties to a Collective-Bargaining Agreement (CBA) effective by its terms from July 27, 2018 to August 31, 2021. The employees encompassed by this CBA – the existing unit – are:

Master carpenter, scenic carpenter, master scenic artist or scenic charge, scenic artist, painter, wardrobe master, wig master, lead dresser, key wardrobe, master electrician, electrician, master sound engineer, master video engineer, lead video technician, lead sound technician, properties master, properties artisan, master stage carpenter, stage properties head, rigger, stage crew (running crew), swing technician, lead hairstylist/makeup artist, hairstylist/makeup artist, including those employed as overhires for those positions, at the Colleges Cornish Playhouse locations; excluding office clerical employees, managers, guards, and supervisors as defined by the NLRA and all other

³ PONCHO is an acronym for Patrons of Northwest Civic, Cultural, and Charitable Organizations, an entity that contributed to the facilities renovation.

⁴ The Playhouse is located in Seattle Center, about a 20-minute walk from the main campus in the Denny Triangle area. PONCHO is in the Capitol Hill neighborhood about a 10-minute drive from the main campus, and Raisbeck is within a block of the main campus.

⁵ As discussed further below, the employees in the group sought by the Petitioner are not academic faculty members, nor are they listed as such. The Scene Shop and Paint Shop Supervisors do occasionally instruct students how to safely and appropriately accomplish tasks like welding or painting.

employees including, but not limited to, resident artistic staff, directors, designers, actors and other guest artists.⁶

The scope of this CBA covers only activities in the Cornish Playhouse Mainstage (Playhouse), the Alhadeff Studio connected to the Playhouse, the Playhouse lobby, stage operations support areas and other rentable spaces on the Campus.

All 8 of the current employees in the existing unit work are part of the CSES Department and report to its Technical Director. They all work at the Playhouse and are referred to as the Playhouse Staff, which currently includes the Master stage carpenter, the Master Electrician, the Master Audio Engineer, the Studio Theatre Master Technician, and the Playhouse Wardrobe Manager. In addition to these five master technicians, there are three swing technicians: the Swing Stage Carpenter, the Swing Electrician, and the Swing Audio Engineer. The swing technicians can cover for the respective master technicians in those areas.

The existing unit's duties at the Playhouse – the largest of the Employer's performance venues – consist of supporting, installing, and operating equipment and managing spaces for students in the performance production department and for third-party events. The students work in the Playhouse as part of their educational curriculum, and about 40% of the productions that take place at the Playhouse are student-produced. The employees in the existing unit provide support and guidance to the faculty, staff, and students who use the Playhouse.

The entire performance production staff – including those in the existing unit and the group sought by the Petitioner – attend staff meetings every Monday: on alternate Mondays the entire CSES department meets as a group. The purpose of these meetings is to discuss ongoing projects and to discuss possible coordination.

THE PETITIONED-FOR UNIT

Scene Shop Supervisor and Paint Shop Supervisor

These two employees in the group sought by petitioner work in the same shop facility and oversee the respective aspects of set and prop creation, including the training of students in those skills. The Scene Shop Supervisor works closely with the Paint Shop Supervisor, who works in the scene shop as the Employer's primary scenic artist and who instructs scenic painting classes and oversees the paint and property inventory frequently relied upon by the scene shop.

The scene shop is the primary location where scenic and set pieces, as well as props, are built and painted for the productions at the various venues.⁷ The Scene Shop Supervisor and

⁶ Lead costumer and related costume shop crafts when used by non-Cornish users of the Playhouse who required a costume shop were added to this unit by mutual agreement of the parties in 2018.

⁷ The scene shop is located in Seattle Center not far from the Playhouse.

Paint Shop Supervisor are both supervised by the Technical Director for CSES. Their primary work location is the Employer's scene shop constructing sets, and they both also perform work in PONCHO and Raisbeck, as well as in the Playhouse.

The Scene Shop Supervisor oversees all aspects of the Scene Shop and all scenery construction and execution according to the schedule of productions. Most of the sets are initially built in the scene shop and then transported to be assembled and completed in the performance venue, including the Playhouse. The specific projects are based on the students' designs for a particular production, and the Technical Director then determines what needs to be built and what materials are needed, after which the Scene Shop Supervisor orders the necessary materials and oversees the construction by the students, assisting them when needed.

The specific job duties of the Scene Shop Supervisor include maintenance and upkeep of all the tools in the scene shop and overseeing shop budget for expendable equipment (screws, saw blades, etc.).⁸ This employee also maintains the scenic inventory of building materials in collaboration with the Technical Director, as well as the load in/load out of scenic materials to various campus venues, including Raisbeck and the Playhouse.⁹

In addition, the Scenic Shop Supervisor also assists in instructing students during practicum hours on basic welding and carpentry techniques and supervises work-study students in the scene shop.¹⁰ He is not, however, considered to be an instructor or listed as an instructor in the Employer's course catalogs: The majority of his time is spent instructing students in the shop on using the equipment properly and in a safe manner.¹¹ On occasion, the Scene Shop Supervisor can work directly with the CSES Technical Director to build complex scenery that needs welding or other specialized skills that the students do not have.

Minimum qualifications for this position include a BA in theatre, at least three years of experience, including some experience at an institution of higher learning, as well as rigging and drafting skills, ability to use power tools and equipment, and being able to handle budgets and employees. Skills include the creation and implementation of set design for Employer's theatre.

⁸ Capital purchases and any purchase over \$2000 must be approved by someone higher up in the department.

⁹ The Employer can also, on occasion, bring in outside contractors to design certain shows, in which case the Scenic Shop Supervisor ensures that they have access to the scene shop and that they are using the Employer's equipment in an appropriate manner.

¹⁰ Work study students are assigned to the scene shop from the Employer's general pool of work study students based on need: they are not necessarily nor are they required to be performance production majors. The Scene Shop Supervisor can interview them and make a recommendation whether they should be assigned to the scene shop. He also signs off on their time sheets but does not set their hours or rate of pay, the former of which is determined by their class schedules and capped at 19 hours/week. Work-study students are not considered by the Employer to be employees. Rather, work-study funds are considered part of their financial aid package: they receive either state or federal funding based on eligibility criteria, and the Employer pays some portion of their minimum-wage pay rate. Once they have used their allotted funds or ceased matriculating, they cannot work under the work-study program.

¹¹ Like the other employees in the group sought by the Petitioner, the Scene Shop Supervisor does not possess or exercise hiring or effective recommendation authority and has no authority to fire, discipline, or evaluate other employees.

This includes rigging, welding, AutoCAD,¹² instructions, touring productions, implementation of lighting plots, reading of construction drafting, and anything inherent to theatre production. The current Scene Shop Supervisor has a Master's Degree in scene design and lighting design, with BA in English and Theatre, and 23 years of experience in industrial theatre, including technical direction, and scene design, as well as having been an instructor at various higher educational institutions throughout the United States. The Employer required additional training OSHA and CPR as mandated by the State, as well as first aid, HR procedures, and customer service. A valid driver license and some training was also required to drive Employer-owned vehicles used to transport sets and equipment to the various venues. The current Scene Shop Supervisor also voluntarily completed on-line courses to brush up on AutoCAD and drafting skills and tool maintenance and industry standards.¹³

The Scene Shop Supervisor's work schedule is based on the Employer's academic year, beginning in August a week or two before the beginning of the school year in the fall, and ending in mid-May. In the past, he has been invited to work over the summer but has declined for personal reasons. Although the job description describes the hours as "variable" 20-30 hours/week, he currently works 20 hours/week in order to maintain his benefits, although the actual days and hours are determined by the schedules of the production students and the needs of the performance production department.¹⁴ The current pay for this position is approximately \$25.67/hour, with occasional overtime where required.

The Scene Shop Supervisor regularly coordinates with the Master Carpenter and the Master Electrician in the existing unit at the Playhouse. For example, he works with the Master Carpenter in regard to the appropriate load of scenic material in the Playhouse, and more recently on renovation projects, including installing railings and organizing storage and backstage areas. The Scene Shop Supervisor also interacts with the Playhouse staff in the existing unit during the set load-in and load-out or "strike" of a given production. Specifically, he will rent the appropriate truck, coordinate delivery times and playhouse hands to unload the truck, and oversee the load-in. Once the load-in is completed and the sets are assembled, however, the Scene Shop Supervisor has no further functions until the production run ends and the show is "struck" from the theatre, at which time he collaborates again with the unit Master Carpenter to pick up and remove the scenery in a timely manner.

The Scene Shop Supervisor has also assisted the unit Master Carpenter in the assembly of rigging and "flying" of scenic pieces. The Scene Shop Supervisor is also consulted by the existing unit stagehands regarding securing certain equipment. He has more limited interaction

¹² Although not defined in the record, AutoCAD (Computer Aided Design) appears to be a commercial computer-aided design and drafting software application used within the theatre industry to develop technical drawings and stage scenes. <https://www.theatre crafts.com>.

¹³ The record is unclear whether the Employer paid for any of these classes: the witness stated that many were offered online for free and that he did not pay out of pocket for any of these refresher trainings.

¹⁴ Currently, students' practicum hours in the scene shop have been limited due to COVID-19 restrictions on occupancy and social distancing needs.

with others in the existing unit at the Playhouse – for example the Wardrobe Master, except for building special projects like tables, display boards and the like to assist them in the classroom.

In addition to working closely with the Paint Shop Supervisor, the Scene Shop Supervisor has worked on several projects with the other employees in the group sought by the Petitioner, specifically the PONCHO Facility Manager in creating and installing sound panels in the recording rooms on Employer's main campus and assisting with storage and repair issues in PONCHO, and the Raisbeck Facility Manager with working on projects in that facility.

With regard to interchange, the Scene Shop Manager has never filled in for any of the positions in the existing unit, or with other positions in the group sought by the Petitioner, specifically the PONCHO Facility Manager, the Raisbeck Facility Manager, or the Paint Shop Supervisor.

The duties and qualifications of the Scene Shop Supervisor are similar to the Master Stage Carpenter or Swing Carpentry Technician in the existing unit at the Playhouse. In this regard, the Master Carpenter is responsible for the safe and timely in-load and out-load for all shows and events in the Playhouse, as well as assisting students in equipment choices and scheduling both student and non-student performances in the Playhouse. The Master Carpenter also, like the Scene Shop Supervisor, maintains and organizes the tool rooms, and manages work standards. Like the Scene Shop Manager, the Master Carpenter must exhibit skills in general stage scenery construction and be familiar with rigging and fly systems and AutoCAD. The minimum qualifications for the Master Carpenter include experience in a union theatre, and the ability to work with students and production teams. The Swing Carpenter in the Playhouse is also required to have experience in rigging and fly systems, and to maintain the tool rooms, as well as to assist the Master Carpenter with scheduling of Playhouse performances. A BFA of technical theatre or equivalent experience is required of the Swing Carpenter, and he is paid a maximum of \$24.78/ hour under the CBA – a rate comparable to the Scene Shop Supervisor.

Paint Shop Supervisor

As noted above, the Paint Shop Supervisor also works in the CSES department and is located in the scene shop along with the Scene Shop Supervisor. Most of her work entails supporting performance production students, and she works very closely with the Scene Shop Supervisor in assisting students with creating and painting sets and props for the productions at the various performance venues. She has done on-site work at both Raisbeck and PONCHO, as well as at the Playhouse. She also works with the Facility Managers of PONCHO and Raisbeck in moving large props and inventorying props.

Duties of the Paint Shop Supervisor include organizing and maintaining the prop and furniture storage locations and instructing and guiding students in their production assignments as prop builders or scenic painters towards a successful completion of that task. In this regard, she coordinates closely with the Scene Shop Supervisor and others on the "build calendar" to

ensure that scenes and props are ready for the scheduled productions. She also locates and identifies props or costumes located at various venues and throughout the campus and returns them to the scene shop. Like the Scene Shop Supervisor, she oversees a limited budget and can purchase supplies for particular productions and general shop usage, and repairs and maintains painting equipment. Occasionally, she is involved in maintaining the performance venues and an occasional classroom.¹⁵

Once a set is created in the Scene Shop, the Paint Shop Supervisor assists with the installation of the set at the production venue, and “introduces” the set to the actors and stage managers. After the technical run-through, she assists the production students with adjustments and repairs to the scenes and props. During installations at the Playhouse, she also coordinates with employees in the existing unit protecting cabling and other equipment. Final painting and touchup work, as well as floor painting, is done on site at the venue: this can require as much as 10-15 hours per production, and an additional 14 hours for floor painting.

Qualifications for Paint Shop Supervisor include a BA or BFA, outside theatre experience, experience with AutoCAD, teaching paint setup and how to create scenic paint, and time management skills. Like the Scene Shop Supervisor, the Paint Shop Supervisor must complete periodic State-required training in CPR and OSHA procedures and have a valid driver license. The current Paint Shop Supervisor has an advanced degree in fine arts emphasizing scenic design and painting. Since graduation, she has worked on approximately 32 productions. With regard to specific skills, the Paint Shop Supervisor uses information from the scenic designer and then devises the most cost-effective way to recreate that vision on the scenery pieces once they have been constructed. She oversees the crews who do the painting, and also manages the budget for these projects.¹⁶

The Paint Shop Supervisor, like the Scene Shop Supervisor, works on an academic schedule beginning in mid-August before the start of the fall semester through the end of the semester in mid-May. In the past, she has occasionally worked during the summer assisting the painting classes by stretching canvas and teaching scenic painting classes for a few days. Again, like the Scene Shop Supervisor, the Paint Shop Supervisor works 20 hours/week, and the days and hours can vary based on the production schedule.¹⁷ The Paint Shop Supervisor, by virtue of working at least 20 hours/week, is eligible for the same package of benefits as other employees, including medical and dental insurance. She is currently paid \$16/hour.

During the course of her on-site work at the Playhouse, the Paint Shop Supervisor works with employees in the existing unit who are involved in performance production, particularly those who do sound and lighting. When doing the “final paint notes” at the Playhouse last

¹⁵ Most recently, the Paint Shop Supervisor also assists the Scene Shop Supervisor in maintaining and enforcing COVID-19 safety and sanitation protocols within the scene shop.

¹⁶ The Paint Shop Supervisor does not have the authority to hire employees, nor does she have the authority to terminate or recommend termination or discipline other employees or evaluate other employees.

¹⁷ The job description for this position lists it as regular part-time for 17.5 hours/week.

Spring semester, which includes touch up work, final painting, and floor painting on site, the Paint Shop Supervisor had to join IATSE Local 488 because this work is covered by the CBA.¹⁸ The hours spent doing this were in addition to her regular 20 hrs./week and she was paid at the contractual rate of \$23/hour for that work rather than at her usual rate as Paint Shop Supervisor.

The position in the existing unit closest to the Paint Shop Supervisor appears to be the Lead Scenic Painter: however, this position does not presently exist as part of the Playhouse crew in the existing unit. No evidence was presented as to what the duties and requirements of that position would be: however it appears from the record that the Paint Shop Supervisor provides scene preparation and painting at all of the Employer's performance venues, including at the Playhouse where she was required to become a member of the union.

PONCHO Facility Manager

The two facility managers at PONCHO and Raisbeck work in the CSES department and are supervised by the Technical Director: They have similar responsibilities for their respective facilities, but they do not appear to interact with one another to a significant extent. They do interact with the Scene Shop and Paint Shop Supervisors in planning and putting on performances and maintaining their respective facilities.

PONCHO Concert Hall is the performance facility for the Employer's music department where this employee performs most of his work, providing production oversight for students and facility and rental events. In a typical academic year, there may be over a hundred performances or productions presented in this historic venue, as well as recitals by individuals and ensembles. The PONCHO Facilities Manager serves as the primary technician for that space in all areas, including audio, lighting, video, and other equipment. The job description for this position states that it also assists campus-wide in other venues as needed.

The duties of the PONCHO Facility Manager include production and stage managing oversight at the PONCHO music performance facility and occasionally in Riasbeck Hall and various studios around the campus, as well as the technical audio needs for most of the campus, including piano tuning and audio recording and mixing.¹⁹ For performances and recitals in the PONCHO facility, he sets up microphones and operates the sound console and may also record the productions for instructional purposes: in this regard, he works closely with the Music Department Chair to ensure that all performance sound requirements are met. Recently, he has been working with the Raisbeck Facility Manager to build equipment for recording studios on the main campus. His purview includes scheduling events at PONCHO according to students' needs, and, as manager of the facility, he also makes arrangements for outside rental clients using the facility. If he needs additional support in any of these functions, he can use work-study

¹⁸ According to the CBA, the Employer is required to request certain unit employees from a list maintained by Local 488, referred to as the "painters union."

¹⁹ Within the past year, he has also been part of a team engaged in the development of livestream systems and procedures to accommodate COVID-19 restrictions.

students assigned to him or other students. He does not directly instruct students, although he does assist in their musical curricular projects and give them guidance and support.²⁰

Qualifications for this position include a degree in either technical theatre or music and at least three years of experience in concert hall maintenance and stage management, with some peripheral knowledge of rigging and lighting. However, the emphasis is on audio experience since PONCHO is home to the music department's performances. With regard to education and experience, the current PONCHO Facility Manager has a BA in Music and Music Composition and has worked as a freelance musician and audio engineer. His primary skill is audio engineering and recording technology, both live and studio. Since being hired, he has also completed some certificate programs, including a rigging certification. As with the other employees in the group sought by the Petitioner, he also completed the requisite CPR and OSHA training.

The PONCHO Facility Manager's work is also based around the academic calendar, beginning around the end of August before the start of the Fall semester and ending in the middle of May. He also worked a few weeks last summer moving equipment from the fabrication lab, which was undergoing renovations, to its temporary location in the scene shop. He typically works between 20 and 32 hours/week, adjusted as needed to accommodate production projects. He is paid \$23/hour but does not receive benefits since he is classified as a temporary employee.²¹

With regard to interactions with employees in the existing unit, the PONCHO Facility Manager has worked with Playhouse Staff – specifically the master audio engineers and the stage carpenter – most recently for 5 weeks last summer for the temporary relocation of the fabrication lab to the scene shop and occasionally moving equipment around the campus. He has recently consulted with other Playhouse Staff lately regarding the development of the livestreaming system and other audio-related concerns, particularly in the past year during the pandemic.

The PONCHO Facility Manager has worked with other employees in the group sought by the Petitioner, particularly the Scene Shop Manager and Paint Shop Manager painting the PONCHO stage floor and during the relocation described above. The PONCHO Facility Manager also works with the music department faculty or the private instructor of a student for a student performance event.

The position in the bargaining unit that is closest to the PONCHO Facility Manager is Master Audio Engineer or Swing Audio Technician at the Playhouse. According to the Employer's job description, the latter ensures safe and timely load-in and load-outs for shows at

²⁰ Like the other employees in the group sought by Petitioner, the PONCHO Facility Manager does not have the authority to hire or effectively recommend hire, terminate, discipline, assign work, or evaluate other employees.

²¹ This temporary status was supposed to have concluded in May 2020, but this employee has continued to work since then: his permanent status has been discussed but apparently never formalized. The job description refers to this position as temporary and part-time for the academic year.

the Playhouse, and assists students in gear choices.²² He is required to be able to work well with students, and have skills in sound engineering and programming, as well as AutoCAD. No education requirements or previous training appears to be required of the Master Audio Engineer: he is paid \$24.78/hour under the CBA and is not limited to 20 hours/week but is contractually guaranteed 30 hours/week. The position of Swing Audio Technician requires a BFA in technical theatre or equivalent experience.

The PONCHO Facility Manager also evidences some of the same duties and responsibilities as the Studio Theatre Manager in the existing unit, who oversees all productions in the Alhadeff Studio that is connected to the Playhouse, including timely in-load and off-load of all shows and events, and assisting students in gear choices. Like the PONCHO Facility Manager, the Studio Theatre Manager must have a minimum of 5 years' experience in theatrical lighting and must be able to work well with students in an educational capacity. He must also be proficient with lighting equipment, and has some sound engineering skills, including AutoCAD.

Raisbeck Facility Manager

The Raisbeck Facility Manager performs substantially the same duties as the PONCHO Facility Manager.²³ He primarily works at Raisbeck Performance Hall, which is used for theatre and student or faculty rehearsals and productions. As opposed to PONCHO, which is an historic performance hall, Raisbeck is a "black box" theater – a simple open space painted black with no fixed stage or seating to allow for a greater variety of events. The job description for this position states that the Raisbeck Facility Manager works in other main campus performance/event spaces and campus-wide venues when needed.

The specific duties of the Raisbeck Facility Manager include scheduling events in the performance hall, maintenance and upkeep of the theatrical systems – primarily lighting and sound – and facilitating the technical needs of any productions. This employee considers himself a general theatrical technician, and, more specifically, a lighting designer, technician, and carpenter. While the facility is being used by students, he offers them technical guidance and assistance in using the equipment, but is not considered to be an instructor or faculty member: in this regard, his duties are similar to those of the unit Technical Director at the Playhouse with regard to interaction with the students working in the particular facility. Two work-study students are generally assigned to him, currently for two hours twice a week: they assist with the

²² A typical production load-in can take several days, with the same for the load-out and then an additional week in the shop to store things away. No party defined what gear is in this context or what it is used for in theatrical productions.

²³ In fact, the Raisbeck Facility Manager had originally applied to be the PONCHO Facility Manager and, when that job was offered to another, he was offered and accepted the job at Raisbeck.

maintenance of the facility, including set-up and cleaning and are trained to work the lighting and sound console.²⁴

The Raisbeck Facility Manager has a BFA in design technology for performance with an emphasis in lighting science. He has had many years' experience at performing arts centers and community theatres. In addition to an advanced degree and work experience, this employee has also taken certificate courses in lighting and sound and is continuing to take the requisite CPR and OSHA training. The job description for this position requires that he be able to work with students in an educational capacity.

Like the other employees in the group sought by the Petitioner, the Raisbeck Facility Manager works on an academic calendar beginning in August and ending in mid-May. During the academic year, he works 20 hours/week, and his exact schedule is dictated by curricular needs. He also worked last summer (2020) cleaning out a studio that was to be demolished and assisted with the temporary relocation of the fabrication lab to the scene shop: this special task required working 40 hours/week for approximately 5 weeks.

With regard to interaction with employees in the existing unit at the Playhouse, the most recent interaction has been relocation work done last summer and assisting with storage solutions in the facility, as well as moving equipment between the three facilities – the Playhouse, PONCHO, and Reisbeck. In addition, he has recently assisted the Playhouse Staff on the instructional livestreaming system instituted during the pandemic; since the onset of the COVID-19 pandemic last Spring, he has been working at livestreaming locations throughout the main campus. This employee does not have much regular contact with employees in the bargaining unit, except for the weekly departmental meetings attended by the entire CSES staff. Moreover, there is no evidence of any interchange between this position and the positions in the existing unit.²⁵

The Raisbeck Facility Manager has some contact with the two shop employees in the group sought by the Petitioner: it has been limited to the relocation tasks performed last summer and seeing the Scene and Paint Shop Managers in the scene shop when he occasionally goes there. More recently, he has worked with the Scene Shop Supervisor to build some “road cases” to store and move equipment: otherwise he does not regularly interact with the Scene Shop Supervisor. He has on occasion assisted the PONCHO Facility Manager with some lighting issues, and conversely that manager has assisted him with the Raisbeck sound system – this would occur maybe three times a month pre-pandemic. Although he does not regularly interact

²⁴ As is the case with the other employees in the group sought by the Petitioner, the Raisbeck Facility Manager does not have the authority to hire or effectively recommend hire, fire or lay off, discipline, or evaluate other employees. He does not have purchasing authority and must go to his supervisor to request additional equipment and supplies.

²⁵ The Technical Director, who supervises the Raisbeck Facility Manager, opined at the hearing that she believed this employee *could* cover for the Studio Theatre Master at the Playhouse or even other employees in the existing unit, but no evidence to proffered to show that this ever occurred. On the sole occasion he was asked to do so, it was concluded that it would have violated the CBA for him to do this work unsupervised by a unit employee.

with the PONCHO Facility Manager, he is expected to be able to back him at that facility if he were unavailable.

The Raisbeck Facility Manager is currently paid \$23/hour but, like the PONCHO Facility Manager, is not eligible for any benefits since his position is tacitly understood to be temporary.²⁶

The comparable position in the existing unit is Master Electrician, who, according to the Employer's job description, works with lighting directors in the Playhouse, hangs lights, works the sound console, oversees load-ins and load-outs and maintenance, keeps inventory and assists students and outside clients. This employee is required to have a minimum of 5 years' experience in theatrical lighting, as well as some experience in other theatrical specialties such as carpentry, sound, and projection. Like the Raisbeck Facility Supervisor, the Master Electrician assists students in gear choices and must have experience working with students. His pay as set by the CBA is comparable at \$25.78/hour, and he is guaranteed 30 hours/week under the contract as opposed to being limited to 20 hours week like the Raisbeck Facility Manager. Likewise, the Swing Lighting Technician – a part-time unit position – pays \$25.47/hour under the CBA, and this unit employee is required to have a BFA in technical theatre or equivalent experience, as well as skill in lighting console programming. Experience in student work environments and some experience with carpentry, sound, and projection are also preferred.

Costume Staff-Instructor Shop Supervisor and the Costume Shop Technician

The Petitioner did not include these employees in the group that it seeks to add to the existing unit. The organizational chart for CSES shows that in addition to the 4 classifications sought by the Petitioner, there is also a Costume Staff/Instructor – Shop Supervisor and a Costume Shop Technician: currently the latter position is vacant. These two classifications appear on the chart just under the Scene Shop Supervisor and the Paint Shop Supervisor. Although both these positions were confirmed to be part of the performance production department overseen by the Technical Director, no evidence regarding their duties, skills, or training was presented by either party.

There was also no evidence regarding their relationship with employees in the existing unit. However, the classification of Wardrobe Master is included in the existing unit at the Playhouse as an on-call intermittent employee either hired from the union's roster or directly by the Employer.²⁷ As part of the Playhouse staff, this employee coordinates the care, management, and organization of costumes for performances in the Playhouse through the dress rehearsal, performance, and strike periods. No particular education level or training is identified in the job

²⁶ According to this employee, this was not mentioned in his offer letter nor has anyone discussed his status with him since his hire. He considers himself a "permanent" employee and expects to return to work in August for the start of the Fall semester. The job description defines this position as "part-time" for the academic year.

²⁷ In this regard, the Petitioner did enter the job description for the unit Wardrobe Master into the record but did not explain its relevance.

description for this position. The CBA for the existing unit also identifies a Lead Wardrobe in the unit as a Technician, but there does not appear to be such an employee in the current existing unit.

ANALYSIS UNDER ARMOUR-GLOBE

Although Board elections typically address the issue of whether employees wish to be represented by a labor organization, the Board will, under certain circumstances, conduct an election that also resolves a unit placement issue, referred to as a self-determination election. Specifically – such an election, referred to as an *Armour-Globe* self-determination election – may be directed where a petitioner seeks to add a group of unrepresented employees to an existing unit.²⁸ An *Armour-Globe* election determines not only whether the employees wish to be represented, but also whether they wish to be included in the existing unit. *Warner Lambert, Co.*, 298 NLRB 993 (1990).

When a petitioner seeks an *Armour-Globe* election, the first consideration is whether the voting group sought is an identifiable, distinct segment of the workforce. *St. Vincent Charity Medical Center*, 357 NLRB 854, 855 (2011), citing *Warner Lambert, supra*, at 995. Whether a voting group is an identifiable, distinct segment is not the same question as whether the voting group constitutes an appropriate unit, which would be the proper analysis if a petitioner was seeking to represent the employees in a standalone unit. *St. Vincent* at 855. Rather, the identifiable and distinct analysis is merely to determine whether the voting group sought would unduly fragment the workforce. *Capitol Cities Broadcasting Corp.*, 194 NLRB 1063 (1972).

If the voting group sought is an identifiable and distinct segment of the workforce, the question then is whether the employees in that voting group share a community of interest with the existing unit. As stated by the Board, when petitioner seeks an *Armour-Globe* election “the proper analysis is whether the employees in the proposed voting group share a community of interest with the currently represented employees, and whether they constitute an identifiable, distinct segment.” *St. Vincent* at 855. An “identifiable, distinct segment” cannot unduly fragment the workforce and cannot be arbitrary or random. *Id.*; *Capitol Cities, supra*, at 1063.

Regarding the second requirement for an *Armour-Globe* election, the Board has reiterated the elements of the traditional community of interest test as involving an analysis of whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including an inquiry into the amount and type of job overlap between classifications; are functionally integrated with other employees; have frequent contact and interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *PCC Structural, Inc.*, 365 NLRB No. 160, slip op. at 13 (2017), citing *United Operations Inc.*, 338 NLRB 123 (2002).²⁹

²⁸ See *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937) and *Armour & Co.*, 40 NLRB 1333 (1942).

²⁹ I note that *PCC Structural* involved an election for a stand-alone unit where the question was whether the employees in the proposed unit share interests separate and distinct from those in the remainder of the unit to

Department Organization

It is undisputed that the employees in the petitioned-for unit are in the same department and report to the Technical Director as the employees in the existing unit. Thus, I find that this is a strong factor in favor of finding a community of interest between the two groups.

Skills and Training

The record shows that the employees in the group sought by the Petitioner have many of the same skills as some of those in the existing unit, and each possesses a particular skill set that aligns with those of a classification in the unit.

In this regard, the PONCHO and Raisbeck Facilities Manager must have general knowledge of the audio, lighting, scheduling, load-in and load-out, and other operational requirements of putting on productions at their respective facilities as the Studio Theatre Master at the Playhouse who is in the existing unit. Likewise, the Scene Shop Supervisor's skills are closely akin to the Playhouse's Master Lead Carpenter in the unit. The Paint Shop Supervisor's skills would compare to those of the Playhouse's Lead Scenic Painter; however, since the latter position does not appear to be filled in the existing unit, the Paint Shop Supervisor is able to do much of that work at the Playhouse. The fact that she was required to join the union to perform this work under the CBA strongly suggests that she has sufficient skills to do unit work.

With regard to training and education, the minimum requirements for the employees in the petitioned-for group and those in the unit are comparable: the latter does not require more training or education to work at the Playhouse. Also, both groups must complete the same State-mandated OSHA and CPR training once hired.

Based on the similarities in the skills and training of the two groups, I conclude that this is a strong factor in favor of finding a community of interest between them.

Job Functions

The employees in the group sought by the Petitioner and those in the existing unit perform essentially the same functions in that they all provide technical support, guidance, instruction, and advice to students working on various productions.

As noted above, the evidence shows that the general job functions of the PONCHO and Raisbeck Facility Managers are very similar to those of the Theatre Master in the Playhouse insofar as general scheduling and oversight of their respective facilities are concerned.

constitute an appropriate unit for bargaining. Inasmuch as the instant case seeks a self-determination election to add employees to an existing unit consistent with *St. Vincent, supra*, I rely on *PPC Structural*s only for its reiteration of the Board's current community of interest factors.

Moreover, all of them share the same goal to guide and facilitate student performances at the Employer's facilities.

Also, the PONCHO Facility Manager has many of the same job functions as the unit Master Audio Engineer and Audio Tech at the Playhouse insofar as utilizing his audio engineering and recording skills at his facility. Likewise, the Raisbeck Facility Supervisor does many of the same tasks as the Master Electrician at the Playhouse. The primary distinction between these employees is that they work at different facilities performing essentially most of the same job functions. Thus, I find that this is a very strong factor in favor of finding a community of interest between these two employees and those in the unit.

With regard to the Scene Shop and Paint Shop Supervisors, their duties involve the construction, painting, and installation of scenery and props at PONCHO and Raisbeck and to some extent at the Playhouse. The record is not entirely clear what the exact duties of the equivalent positions in the existing unit – the Master and Lead Carpenter and the Lead Scenic Painter – are and how they might relate to those of the Scene Shop and Paint Shop Supervisors. Because of this ambiguity, I find that this factor militates slightly against finding a strong community of interest between these two employees and those in the existing unit. However, as discussed more fully below, I find that the contact and interaction between these employees and the unit employees, as well as their functional integration, compensates for any weakness in this factor.

Functional Integration

As noted above, the common goal of the entire CSES performance production department – those in the group sought by the Petitioner and those in the existing unit – is the oversight and instruction of students in the production of their projects in theatre production, music, and dance. In this regard, the PONCHO and Raisbeck Facilities Managers and the Studio Theatre Master at the Playhouse are all engaged in the facilitation and oversight of student productions at their respective venues as part of the Employer's educational mandate.

The Scene Shop and Paint Shop Supervisors provide the hands-on practicum by guiding students in the proper use of tools and paint to construct sets to be used in those productions. They build and create the sets and also assist and support the students in the installation of those sets at the performance venue. As such, they contribute to the overall educational experience of the students.

Moreover, both groups must collaborate with one another on a regular basis to achieve these goals, as exemplified by their attending regular planning meetings together and having regular contact. Thus, the totality of the evidence indicates that the employees in the petitioned-for group are functionally integrated with those in the existing unit and therefore I conclude that this is a strong factor in finding a community of interest between the two groups.

Contact and Interchange with Unit Employees

As noted above, the entire performance production department, including those in the petitioned-for group and the existing unit, all attend regular meetings with the Technical Director to coordinate work on upcoming performances: this is the most frequent source of contact between the two groups.

Aside from those regular meetings, the other point of contact between the Scene Shop and Paint Shop Supervisors in the group sought by the Petitioner and those in the existing unit occurs immediately before and after productions at the Playhouse. In this regard, they assist with the transport, load-in, and set up of the sets during the week before the scheduled production, and, after the production is over, they load-out the sets, transport them back to the scene shop and store them. During the load-in and load-out and the installation, they coordinate closely with the unit employees in the Playhouse. Thus, they have enough regular and frequent contact to justify my finding that this is a strong factor in concluding that they share a community of interest with the existing unit. There is no interchange between these two employees and any employees in the unit, however, primarily because the existing CBA precludes it.³⁰ Thus, I find interchange to be a neutral factor to finding a community of interest between the two groups.

With regard to the PONCHO and Raisbeck Facility Managers, they have less interaction with the unit Playhouse Crew inasmuch as they primarily perform their duties at their respective facilities. They do, however, assist and provide support to the Playhouse Staff on an as-needed basis. Although this would normally militate against finding a community of interest between these two employees and the existing unit, I found that this minimal interaction is compensated for by the similarity of their training and duties.

There does not appear to be any interchange between the PONCHO and Raisbeck Facility Managers and any of the unit employees at the Playhouse. On the one occasion that the Raisbeck Manager was being considered to stand in for the Playhouse's Theatre Master, it was concluded that he was precluded from doing so by the CBA. Thus, I find that this is a neutral factor towards finding a community of interest between the two groups.

Terms and Conditions of Employment

All the CSES employees – those in the petitioned-for unit and existing unit – are under the same human resources and payroll systems. All those who are eligible receive comparable benefits.³¹

³⁰ As noted above, when the Paint Shop Supervisor works as a scenic painter doing on-site touch ups and floor painting at the Playhouse, she is required to join the union and is paid contractual wages for that work. Thus, it appears that the provisions of the CBA covering the Playhouse would preclude any interchange between the two groups.

³¹ Both the PONCHO and Raisbeck Facility Managers testified that they did not receive benefits because they were told at one point that their positions were "temporary." However, no independent corroboration or documents were presented by either party to substantiate this. Moreover, both of them have continued to work beyond the deadlines

The hours of the two groups differ somewhat, but this is largely due to the hours guaranteed the unit employees by the CBA. However, for both groups, their days and hours of work are determined by the performance schedules at the various venues and not by any fixed schedules. Both groups can, and occasionally do, work over the summer. The pay rates appear comparable for both groups, with the exception of the Paint Shop Supervisor.

I conclude that the similarities in terms and conditions of employment, particularly wages, hours, and benefits, combined with centralized human resources, somewhat outweigh the differences and favor the finding of a community of interest between the two groups.³²

Supervision

As noted above, all the employees in the production performance department in CSES report to the same Technical Supervisor, who also interviewed and hired most of them. Moreover, there does not appear to be any interim level of supervision or chain of command for the two groups. I conclude that the employees in the group sought by Petitioner and those in the existing unit share the same supervisor, which militates in favor of finding a community of interest.

With regard to the position of Costume Staff/Instructor Shop Supervisor, this current employee is part of the CSES performance production department and reports to the same Technical Director as the employees in the petitioned-for unit and the existing unit. I find that omitting this employee from the group sought to be added to the existing unit would result in one unrepresented employee in the same department and potentially a residual unit. Inasmuch as there is a dearth of evidence as to whether there is any community of interest between this employee and the existing unit, I conclude that the Costume Staff/Instructor Shop Supervisor should be allowed to vote subject to challenge with the status to be determined after the election if necessary. With regard to the Costume Shop Tech, the record shows that this position is currently not filled. Consistent with the foregoing argument, I find that should this position be filled within the eligibility period, that the employee in the position be allowed to vote subject to challenge as well.³³

Additionally, I note that both parties have addressed the issue of whether the employees in the group sought by Petitioner are supervisors within the meaning of the Act and whether they should be precluded from any bargaining unit found appropriate. Although the Employer was

expressed to them, and therefore I conclude that there is insufficient evidence to suggest that they are temporary employees.

³² The Employer asserts that the employees in the existing unit have different pay, benefits, severance pay, holiday pay, and vacation and sick leave by virtue of the extant CBA. Since it is axiomatic that employees in an existing unit could have different contractual benefits than those not in the unit, I do not consider this argument to be persuasive.

³³ The Petitioner indicated that it would be willing to proceed to election to add an alternate group to the existing unit, and, in the alternative, would proceed to election to represent the four employees at issue or an alternative grouping of employees in a separate bargaining unit.

precluded from litigating this issue at the hearing for the reasons set forth above, it raised the argument as a statutory preclusion issue in its brief, arguing that the employees at issue are not employees under the Act by virtue of their supervision of other employees, specifically work-study students. The Board has not specifically found that work-study students are employees under the Act, and, even had it so found, there is insufficient evidence in the record that the four employees in the petitioned-for group possess or exercise any of the supervisory indicia set forth in Section 2(11) of the Act. They all testified that they did not hire the work-study students, who are selected based on financial need, nor did they have the authority to set their schedules or wages, or to discipline, evaluate or terminate them. Rather, the relationship appears to be largely educational. For these reasons, I reject the Employer's argument that the employees in the group sought by the Petitioner are supervisors under the Act.

Also, the Employer argues that the language of the CBA restricts unit employees to working only in the Playhouse, implying that those who work at other facilities must be excluded. However, the jurisdictional language in the CBA also includes "other rentable spaces on Campus." Inasmuch as both the PONCHO and Raisbeck facilities are regularly rented out to third-parties and outside groups, they would appear to fall within the CBA's jurisdictions. Moreover, the job descriptions for the PONCHO and Raisbeck Facility Managers allow them to work at any facility on the campus. Therefore, I find that this language does not prevent me from finding that the Petitioner's unit is appropriate.

Accordingly, based upon the record as a whole and the respective arguments of the parties, particularly the shared supervision, similar skills and training, job functions, functional integration, contact, and similar terms and conditions of employment, I have concluded that the voting group sought shares a community of interest with the existing unit. Moreover, I find on the same basis that the employees in the petitioned-for group comprise an identifiable and distinct segment of the workforce. In this regard, they are all contained within the same department and work under the same supervisor. As such, the group is neither arbitrary nor random.

For these reasons, I have concluded that the voting group sought by the Petitioner is appropriate for the self-determination election sought by the Petitioner. There are four employees in this group, and I shall direct a mail-ballot election pursuant to the parties' agreement.

CONCLUSION

I have determined that the voting group described below is appropriate, and I shall direct a mail-ballot self-determination election among those employees. Based on the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The parties stipulated, and I so find, that the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³⁴
3. The Petitioner is a labor organization within the meaning of the Act, and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a voting group appropriate for the purposes of collective bargaining within the meaning of Section 9(c) of the Act:

All Scene Shop Supervisors, Paint Shop Supervisors, PONCHO Facility Managers and Raisbeck Facility Managers employed by the Employer, excluding office clerical employees, managers, guards, and supervisors as defined by the NLRA and all other employees including, but not limited to, resident artistic staff, directors, actors and other guest artists.

Others Permitted to Vote: Costume Staff/Instructor Shop Supervisors and Costume Shop Technicians, should the latter position be filled within the voting eligibility period, may vote in the election, subject to challenge. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

There are four employees in the above voting group, and two employees in the group permitted to vote subject to challenge.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a mail-ballot election among the employees in the voting group found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the US**. If a majority of valid ballots are cast for **International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the US**, they will be taken to have indicated the employees desire to be included in the existing unit currently

³⁴ The parties stipulated to the following commerce facts:

Cornish college of the Arts, a State of Washington corporation with a facility and principal office located in Seattle, Washington, is a private arts college. During the past twelve months, the Employer has derived gross revenues in excess of \$1 million and purchased and received goods or services valued in excess of \$5,000 which originated outside the State of Washington.

represented by the Petitioner. If a majority of valid ballots are not cast for representation, they will be taken to have indicated the employees' desire to remain unrepresented.

A. Election Details

Based on the agreement of the parties, the election will be held by mail. On **Friday, May 7, 2021** the ballots will be mailed to voters by a designated official from the National Labor Relations Board, Region 19. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and do not receive a ballot in the mail by **Friday, May 14, 2021**, as well as those employees who require a duplicate ballot, should immediately contact the Region 19 office at 206-220- 6300, or our national toll-free line at 1-866-667-NLRB (1-866-667-6572). Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 19 office by **3:00 p.m. PDT on Tuesday, June 8, 2021**. The parties agreed that only those ballots that arrive in the Region 19 office by the ballot due date and time will be counted and that no objections will be filed based upon any such untimely received ballots. All ballots will be commingled and counted by an agent of Region 19 of the National Labor Relations Board on **Thursday, June 10, 2021 at 1:00 p.m.** with participants being present via electronic means. No party may make a video or audio recording or save any image of the ballot count. If, at a later date, it is determined that a ballot count can be safely held in the Regional Office the Region will inform the parties with sufficient notice so that they may attend.

B. Voting Eligibility

Eligible to vote are those in the voting group who were employed during the payroll period ending immediately prior to the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Also eligible to vote subject to challenge are the Costume Staff/Instructor Shop Supervisor. If the position of Costume Shop Technician has been filed during the voter eligibility period described above, those employees will also be allowed to vote subject to challenge.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3)

employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(1) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters. The Petitioner waived the ten days that it is entitled to have the voter list. To be timely filed and served, the list must be received by the Regional Director and the parties by **Monday, April 26, 2021**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the voting group found appropriate are customarily posted. The Notice

must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the voting group found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting, and likewise shall be estopped from objecting to the non-distribution of notices if it is responsible for the non-distribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of the Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this Decision after the elections on the ground that it did not file a request for review prior to the elections.

A request for review may be E-filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions.³⁵ If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and the Board has not already ruled on the request and therefore the

³⁵ On October 21, 2019, the General Counsel (GC) issued Memorandum GC 20-01, informing the public that Section 102.5(c) of the Board's Rules and Regulations mandates the use of the E-filing system for the submission of documents by parties in connection with the unfair labor practice or representation cases processed in Regional offices. The E-Filing requirement went into immediate effect on October 21, 2019, and the 90-day grace period that was put into place expired on January 21, 2020. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden.

issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

DATED at Seattle, Washington on the 22nd day of April 2021.

Ronald K. Hooks

Ronald K. Hooks, Regional Director
National Labor Relations Board, Region 19
915 2nd Avenue, Ste. 2948
Seattle WA 98174

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

Date Filed
February 24, 2021

Cornish College of the Arts

Employer

and

International Alliance of Theatrical
Stage Employees, Moving Picture
Technicians, Artists, and Allied Crafts
of the U.S.

Petitioner

Case No. 19-RC-273405

Date Issued June 10, 2021

City Seattle State WA

Type of Election:
(Check one:)

☐ Stipulation

☒ Board Direction

☐ Consent Agreement

☐ RD Direction
Incumbent Union (Code)

(If applicable check
either or both:)

☐ 8(b) (7)

☒ Mail Ballot

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of tabulation of ballots case in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Approximate number of eligible voters 5
2. Number of Void ballots 0
3. Number of Votes cast for 4
Petitioner
4. Number of Votes cast for _____
5. Number of Votes cast for _____
6. Number of Votes cast against participating labor organization(s) 0
7. Number of Valid votes counted (sum 3, 4, 5, and 6) 4
8. Number of challenged ballots 1
9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 5
10. Challenges are not sufficient in number to affect the results of the election.
11. A majority of the valid votes counted plus challenged ballots (Item 9) has not been cast for _____

International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists, and Allied Crafts of the U.S.

For the Regional Director Sara C. Dunn

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For --Employer-- Tiffany Davis- Brantly participated by video

For --Petitioner-- Ben Berger participated by video

For _____